

CHRIS CHRISTIE  
Governor

## New Jersey Office of the Attorney General

Division of Consumer Affairs  
New Jersey State Board of Physical Therapy Examiners  
124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102



PAULA T. DOW  
Attorney General

KIM GUADAGNO  
Lt. Governor

April 5, 2011

THOMAS R. CALCAGNI  
Acting Director

### By Certified and Regular Mail

Simone Castor, P.T.  
863 Lyons Avenue  
Irvington, NJ 07111-1845

### Mailing Address:

P.O. Box 45014  
Newark, NJ 07101  
(973) 504-6455

Re: Modified Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Ms. Castor:

This letter is to advise you that the New Jersey State Board of Physical Therapy Examiners (the "Board"), has had an opportunity to review information concerning the physical therapy services you provided to N.T. at Jersey Rehabilitation, PA, located in Newark, New Jersey, between April 13, 2006 and May 5, 2006. Specifically, the information reviewed included a complaint filed by N. T.; the physical therapy patient record of N. T. and the testimony you provided at the investigative inquiry of the Board held on November 14, 2006; which you attended with your legal representative Steven I. Kern, Esq.

Upon review of all available information, it appears to the Board that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(e) in that you may have engaged in professional misconduct as the treatment interventions provided for 24 sessions of physical therapy treatment for this patient were identical for each treatment session. The patient record supports that you did not perform a physical therapy re-evaluation after 30 days of treatment in order to determine whether the patient was progressing. It also appears to the Board that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(h), in that you failed to comply with the provisions of any act or regulation administered by the Board, specifically that you violated N.J.A.C. 13:39A-3.1 (c)2, 9 and 13, in that the patient records you maintained on the treatment to N.T. did not accurately reflect the patient contact with the physical therapist.

The Board's review has determined that the patient was referred to you for physical therapy following a car accident, in which the patient was subject to whiplash injury to the cervical spine, suffered from post concussion syndrome, spraining of the left wrist, and internal derangement in the left knee. You confirmed that you performed an initial evaluation, where you determined that N. T. had a decreased range of motion and decreased functional capacity. You also noted that there was some swelling and gait dysfunction. You concluded, according to your testimony that the potential for rehabilitation was good and that short term goals were to eliminate pain.

Upon questioning you confirmed that between the dates of April 13, 2006 and June 5, 2006, there was no physical therapy re-evaluation performed on N. T. You stated that N.T. no longer wished for you to be her physical therapist and you transferred her care over to a physical therapist assistant. It was your testimony that the reason N.T. was not evaluated was because she no longer wished to be seen by yourself or anyone else. Documentation of this request and transfer of care is however, not indicated in the patient's record. Additionally, the patient records for the 24 visits of physical therapy reflects that the treatment offered to this patient was identical for each visit. Your failure to properly re-evaluate the patient and to continue the same treatment over 24 visits is considered professional misconduct, in violation of N.J.S.A. 45:1-21(e).

N.T.'s patient records also do not reflect recordings of progress or goals that appropriately progressed the patient based on the initial assessment. The records do not reflect a change in treatment or any type of notation as to the reaction of the patient to the treatment or any increase in range of motion or capacity. Upon questioning you stated that the physical therapy was beneficial to N.T. and that her condition was improving. However, the notations in the patient record continually state that the patient tolerated the session well, and for each session this is the same observation. The recommendations for treatment did not change as therapy sessions continued. Your failure to properly document appropriate goals and progress for the patient, re-evaluate the patient and failure to prepare a physical therapy discharge summary are considered patient records violations, in violation of N.J.A.C. 13:39A-3.1 (c) 2, 9 and 13.

At this juncture, the Board has preliminarily concluded that the above violations appear to be sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Respondent is cautioned to perform re-evaluation of patients in accordance with standards of practice of physical therapy which constitutes a violation of N.J.S.A. 45:1-21(e).
2. Respondent is cautioned to maintain patient records that properly document the patient treatment and progress by including appropriate goals and the progress of the patient and that include a physical therapy discharge summary, in violation of N.J.S.A. 45:1-21(h), specifically N.J.A.C. 13:39A-3.1(c)2, 9 and 13.

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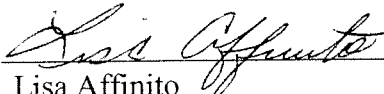
3. Pay a penalty in the amount of \$1,500.00 consisting of \$750.00 for the violation of N.J.S.A. 45:1-21(e) and \$750.00 for the violations of N.J.A.C. 13:39A-3.1(c)2, 9 and 13 to be paid in 15 monthly installments. The first fourteen payments shall be payable in the sum of \$119.86 and the fifteenth payment shall be payable in the amount of \$119.96. The first payment shall be due one month from the signing of the acknowledgment at the bottom of this letter. Payment is to be made by certified check or money order and made payable to the Board of Physical Therapy Examiners and sent to the attention of the Lisa Affinito, Executive Director, P.O. Box 45014, Newark, New Jersey 07101.
4. Pay the costs incurred by the Board in the amount of \$298.00 which represents investigative costs as documented in the attached certification.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

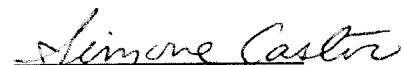
In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of formal disciplinary action. In such an event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event that formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement, should any charges against you be sustained. Additionally, the Board may, if the facts found so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact your attorney Mr. Steven Kern, Esquire. He may direct questions to Deputy Attorney General Carmen A. Rodriguez, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of formal disciplinary action.

NEW JERSEY STATE BOARD OF  
PHYSICAL THERAPY EXAMINERS

By:   
Lisa Affinito  
Executive Director

**ACKNOWLEDGMENT:** I, Simone Castor, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoings at an administrative hearing. I am also aware that the action taken against me by the board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$ 1,500.00 and costs in the amount of \$298.00 for a total of \$1798.00 to be paid in fifteen installment payments as indicated in paragraph three above beginning one month from the signing of this acknowledgment.

  
Simone Castor, P.T.

Dated:

cc: Robert Conroy, Esquire  
Carmen A. Rodriguez, Deputy Attorney General